

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON**

**CAVALRY SPV I, LLC as assignee
of Capital One Bank, N.A.**

Plaintiff/Counterclaim-Defendant,

v.

CIVIL ACTION NO. 2:16-cv-05976

**JEFF HUGHES, individually and
on behalf of all others similarly situated,**

Defendant/Counterclaim Plaintiff(s).

**CAVALRY SPV I, LLC'S
MOTION TO DISMISS AND REALIGN PARTIES**

Cavalry SPV I, LLC, (“Cavalry”), as assignee of Capital One Bank (USA), N.A., by counsel, pursuant to Rule 41 of the Federal Rules of Civil Procedure, moves this Court to dismiss Cavalry’s Complaint against Jeff Hughes (“Mr. Hughes”) and realign the parties according to their actual roles in this litigation. Cavalry states that after it filed a collection suit against Mr. Hughes, Mr. Hughes filed class action counterclaims against Cavalry, and Cavalry desires to have those claims adjudicated before a federal tribunal. The procedural steps requested by Cavalry in this motion are necessary to allow Cavalry to remove this proceeding from the Circuit Court of Kanawha County, West Virginia to this Court, as Cavalry believes it is the true defendant in this case. In further support of this motion, Cavalry incorporates its Memorandum of Law in Support of Cavalry SPV I, LLC’s Motion to Dismiss and Realign Parties (“Memorandum of Law”).¹

¹ Cavalry attaches to this Motion Exhibit 1, Cavalry’s Complaint against Mr. Hughes; Exhibit 2, Notice of Removal to the Circuit Court of Kanawha County, West Virginia; Exhibit 3, Mr. Hughes’s Answer to Complaint and Class Counterclaims; Exhibit 4, Affidavit of Terry Rivera; and Exhibit 5, Notice of Removal to Federal Court.

WHEREFORE, based on the foregoing and the accompanying Memorandum of Law, Cavalry SPV I, LLC respectfully requests that the Court enter an order dismissing Cavalry's Complaint against Mr. Hughes and realigning the parties so that Mr. Hughes is the plaintiff and Cavalry is the defendant, and granting Cavalry such other relief as the Court deems appropriate.

CAVALRY SPV I, LLC

By Spilman Thomas & Battle, PLLC

/s/ Tai C. Shadrick

Nicholas P. Mooney II (WV State Bar No. 7204)

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CERTIFICATE OF SERVICE

I, Tai C. Shadrick, counsel for Cavalry SPV I, LLC, hereby certify that on July 1, 2016, I electronically filed the foregoing **“Cavalry SPV I, LLC’s Motion to Dismiss and Realign Parties”** with the Clerk of the Court using the CM/ECF filing system, which will send notification of such filing to the following:

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/s/ Tai C. Shadrick
Tai C. Shadrick (WV Bar #12261)